IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR

FRIDAY, THE 5TH OCTOBER 2007 / 13TH ASWINA 1929

WP(C).No. 1972 of 2005(I)

PETITIONER:

C.JNANAMBIKA, FAIR COPY SUPERINTENDENT
LAND REVENUE COMMISSIONERATE,
THIRUVANANTHAPURAM.

BY ADV. SRI.G.SUKUMARA MENON
SMT.DEEPTHI S.MENON

RESPONDENTS:
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1. **SECRETARY, LAND BOARD,**
   THIRUVANANTHAPURAM.

2. **LAND REVENUE COMMISSIONER,**
   THIRUVANANTHAPURAM.

3. **M.RAVIKUMARAN NAIR,**
   SELECTION GRADE TYPIST, LAND REVENUE
   COMMISSIONERATE, THIRUVANANTHAPURAM.

BY ADV. SRI.S.P.ARAVINDAKSHAN PILLAY
SMT.N.SANTHA
SRI.PETER JOSE CHRISTO
BY GOVERNMENT PLEADER SRI.R.LAKSHMINARAYANAN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 05/10/2007,THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

KSS

WPC.NO.1972/2005 I

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: COPY OF FAX MESSAGE NO.L.R.(N)2-18067/04 DTD.16/04/04 OF THE 2ND RESPONDENT.

EXT.P2: COPY OF APPLICATION DTD. 10/06/2004 OF THE PETITIONER ADDRESSED TO THE 2ND RESPONDENT.

EXT.P3: COPY OF PROCEEDING NO.LR (N)2-18067/04 DTD. 1/12/04 OF THE 2ND RESPONDENT ISSUED TO THE PETITIONER.

EXT.P4: COPY OF PROCEEDINGS NO.L.B.(A) 1.5/04 DTD. 9/12/04 OF THE 1ST RESPONDENT.

EXT.P5: COPY OF PROCEEDINGS NO.L.B.(A)4.12106/04 DTD. 1/01/05 OF THE 1ST RESPONDENT.

EXT.P6: COPY OF PROCEEDINGS NO.L.R.N.2.18067/04 DTD. 11/01/05 OF THE 2ND RESPONDENT.

EXT.P7: COPY OF GOVT.ORDER (P) NO.39/91/P&ARD DTD. 7/12/1991.

3RD RESPONDENT'S EXHIBITS:

EXT.R3(A): COPY OF THE ORDER NO.A2.25399/03(1) DTD. 5/11/2003 OF THE DISTRICT COLLECTOR, WAYANAD.

EXT.R3(B): COPY OF THE ORDER NO.A2.25399/03(2) DTD. 23/12/2003 OF THE DISTRICT COLLECTOR, WAYANAD.

EXT.R3(C): COPY OF THE SUBMISSION DTD. 29/04/2004.

EXT.R3(D): COPY OF THE REPRESENTATION SUBMITTED BY THE 3RD RESPONDENT BEFORE THE COMMISSIONER, LAND REVENUE.

/TRUE COPY/

P.S.TO JUDGE

KSS

K.BALAKRISHNAN NAIR, J.

W.P.(C) NO. 1972 OF 2005-I

JUDGMENT

The petitioner was a Selection Grade Typist in the Land Revenue Department in Alappuzha district. While so, the Land Revenue Commissioner invited applications from willing Selection Grade Typists to be considered for promotion as Fair Copy Superintendent. The petitioner submitted Ext.P2 application. Having regard to her seniority, she was selected and appointed as Fair Copy Superintendent, as per Ext.P3 order dated 1.12.2004. As evident from Ext.P4 proceedings, she joined in that post on 6.12.2004. As per Ext.P5 proceedings, her salary was fixed in the scale of pay applicable to that post. While so, she was reverted by Ext.P6 order. Another claimant, the 3rd respondent herein staked his claim for promotion to the post of Fair Copy Superintendent in the vacancy in which the petitioner was accommodated. He was a candidate who relinquished his promotion to the post of Fair Copy Superintendent for a period of one year from 5.11.2003. Since the one year period was over, he was entitled to be considered for promotion to the vacancy which arose after 4.11.2004. But, ignoring his claim, the petitioner was promoted. So, the 3rd respondent

represented, pointing out the said mistake. His claim was examined and found correct and therefore, Ext.P6 order was passed, cancelling Ext.P3 order.

2. The petitioner attacks the said order on two grounds. The first ground is that the order was issued in violation of the principles of natural justice, in as much as she was not heard before Ext.P6 order was issued. The second ground is that pursuant to Ext.P1 notice, the 3rd respondent did not apply. So, his claim was not liable to be considered for appointment as Fair Copy Superintendent.

3. The 2nd respondent has filed a counter affidavit, supporting the impugned order. The 3rd respondent has also file a counter affidavit, in which he has produced Ext.R3(c), the option submitted by him pursuant to Ext.P1. Though, the counter was filed in March, 2005, no reply affidavit is filed by the petitioner, disputing the said claim.

4. Heard the learned counsel on both sides. On merits, the petitioner does not have any case. When there was a senior hand and his claim was wrongly overlooked, the 2nd respondent rightly upheld his claim and to accommodate him, the petitioner was reverted. The 3rd respondent is the admitted senior of the petitioner in the post of Selection Grade Typist and his period of relinquishment was also over before the promotion of the

petitioner. Since the petitioner does not have any case on merits, the hearing of her before the issuance of Ext.P6 will only be an empty formality. The result is obvious from the start. When the petitioner does not have any ground to urge, the direction to hear her will amount to issuing a futile writ. Therefore, the said contention of the petitioner also cannot be accepted.

In the result, the writ petition fails and it is dismissed.

5th October, 2007. **K.BALAKRISHNAN NAIR, JUDGE.**

Nm/